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13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE EASTERN DISTRICT OF WASHINGTON

15 ESTATE of CHRIS ROGERS, by and
16 through personal representative
17 STEVEN ROGERS,

18 Plaintiff,

19 vs.

20 COUNTY OF SPOKANE; and
21 NAPHCARE, INC., an Alabama
22 corporation,

23 Defendants.

Cause No.:

COMPLAINT FOR DAMAGES

Demand For Jury Trial

1 Plaintiff Steven Rogers as personal representative for the Estate of Chris
2 Rogers, by and through the attorneys of record Chad Freebourn of Roberts |
3 Freebourn, PLLC and Josh Maurer of Maurer Law, allege as follows:
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5 **I. PARTIES**

- 6
- 7 1. At all times relevant herein, Plaintiff Chris Rogers was a resident of
8 the County of Spokane, State of Washington.
 - 9 2. At all times relevant herein, Personal Representative Steven Rogers
10 was and is a resident of the County of Spokane, State of Washington,
11 and was properly appointed as the Personal Representative pursuant to
12 Order of the Spokane County Superior Court in Cause No. 20-40038-
13 1-32. Plaintiff Rogers brings this action as the Personal Representative
14 for the benefit of Chris Rogers' estate and all beneficiaries entitled to
15 recovery pursuant to the wrongful death, survival and personal injury
16 laws of the State of Washington, including but not limited to, RCW
17 4.20.010, RCW 4.20.020, RCW 4.20.046, and RCW 4.20.060, or
18 under any body of foreign law of damages or the rules applicable to
19 these claims.
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1 3. At all times relevant herein, Defendant County of Spokane is a County
2 in the State of Washington, operating Spokane County Detention
3 Services and the Spokane County Public Defender's Office in the
4 County of Spokane, State of Washington. Under the doctrine of
5 *respondeat superior* is liable for the conduct of its employees, which
6 at all times relevant herein were acting within the course and scope of
7 their employment with the County of Spokane.

8 4. At all times relevant herein, Defendant NaphCare, Inc. ("NaphCare"),
9 foreign corporation existing under the law of the State of Alabama in
10 good standing, duly licensed and conducting business in the State of
11 Washington, County of Spokane. NaphCare contracted with the
12 County of Spokane to provide medical and mental health services for
13 detainees, and was acting under the color of state law. Under the
14 doctrine of *respondeat superior* is liable for the conduct of its
15 employees, which at all times relevant herein were acting within the
16 course and scope of their employment with the County of Spokane.

17 II. JURISDICTION AND VENUE

1 5. This Court has jurisdiction over Plaintiff's claims under the Fourteenth
2 Amendment of the United States Constitution, the Americans with
3 Disabilities Act, 42 U.S.C. §§ 1983 and 1998, and 28 U.S.C. §§ 1331,
4 1343, et seq.

6 6. Plaintiff's state and federal claims arise from a common nucleus of
7 operative facts; therefore, this Court has supplemental jurisdiction over
8 the state claims pursuant to 28 U.S.C. § 1367.

10 7. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1) as a substantial part
11 of the events or omissions giving rise to this controversy and the
12 underlying suit occurred in this District under 28 U.S.C. § 1391(b)(2).

13 8. On June 1, 2020, in compliance with RCW 4.96. et al., Plaintiff properly
14 submitted a tort claim to the County of Spokane, and more than 60-days
15 has passed.

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19 **III. FACTS**

20 9. On November 28, 2017, Plaintiff was detained by Spokane County
21 Sherriff's Office for an allegation of Robbery in the 1st Degree, Assault
22 in the 2nd Degree, Theft of a Motor Vehicle and Hit and Run
23 Unattended.
24
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1 10. On November 29, 2017 Pre-Trial Services for Spokane County
2 submitted a report that Plaintiff had mental health concerns, was
3 prescribed medications for those concerns and there was a 'mental
4 health hold' from Frontier Behavior Health.
5

6 11. On November 29, 2017 at 1:39 p.m. medical staff at the Spokane
7 County Jail noted that Plaintiff had suicidal statements to law
8 enforcement.
9

10 12. Spokane County contracts with NaphCare to provide provisional
11 medical care and mental health care to inmates held at the Spokane
12 County Jail.
13

14 13. NaphCare is a corporation, based out of Alabama that provides
15 'Correctional Healthcare' in correctional facilities around the United
16 States of America.
17

18 14. At all times relevant here NaphCare was treating the Plaintiff Chris
19 Rogers while he was an inmate in the care and custody of the Spokane
20 County Jail.
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1 15. While detained at the Spokane County Jail, and in the custody and care
2 of NaphCare, medical and mental health care records were reviewed
3 and prepared in relation to the Plaintiff.

4
5 16. On November 29, 2017 at 1:00 a.m. when the Plaintiff was asked
6 whether “Inmate agrees to contact for safety and will notify staff if
7 they plan to act on suicidal thoughts or impulses,” the Plaintiff
8 indicated to the staff ‘No.’

9
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11 17. On November 29, 2017 at 7:08 p.m. medical staff at the Spokane
12 County Jail noted that Plaintiff was “voicing current or recent suicidal
13 thoughts” and “Past suicide attempts, strong plans, or treatment for
14 attempts.”

15
16 18. On November 29, 2017, medical staff noted that Plaintiff received
17 medication, via injection, for schizophrenia, but could not remember
18 the name of the medication.

19
20 19. The Plaintiff was removed from suicide watch at 10:39 a.m. on
21 November 29, 2017, just 8 hours after being placed on watch.
22 According to that same record on November 29, 2017 when the
23 Plaintiff was asked “Inmate agrees to contact for safety and will notify
24 Plaintiff was asked “Inmate agrees to contact for safety and will notify
25

1 staff if they plan to act on suicidal thoughts or impulses,” the Plaintiff
2 indicated to the staff ‘No.’
3

4 20. The medical staff noted that the Plaintiff had a previous suicide attempt,
5 by hanging, in 2014.
6

7 21. On November 29, 2017 the Spokane County Public Defender’s Office
8 entered a ‘Temporary Notice of Appearance’ on behalf of the Plaintiff.
9 According to jail records, no one from the Public Defender’s Office
10 met with the Plaintiff prior to the first appearance.
11

12 22. On November 29, 2017 Plaintiff had a first appearance in Spokane
13 County Superior Court where a bond was imposed detaining the
14 Plaintiff.
15

16 23. Seven days after the Plaintiff’s first appearance, A Notice of
17 Appearance was entered on behalf of counsel from the Spokane
18 County Public Defender’s Office.
19

20 24. Plaintiff received one visit from Frontier Behavioral Health on
21 December 5, 2017 for 15 minutes.
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1 25. Between November 30, 2017 and December 8, 2017 Plaintiff called
2 the Public Defender's Office five times. Each time the Plaintiff hung
3 up after a minute or two.

4
5 26. On December 8, 2017 counsel from the Public Defender's Office met
6 with the Plaintiff for 15 minutes.

7
8 27. On December 11, 2017 an Order was entered on behalf of the Plaintiff
9 for a competency evaluation to be completed by Eastern State Hospital.

10
11 28. On December 13, 2017 a doctor from Eastern State Hospital and
12 counsel from the Public Defender's Office met in a visitation booth at
13 the Spokane County Jail to conduct the competency evaluation.

14
15 29. Between December 13, 2017 and December 22, 2017 Plaintiff called
16 the Spokane County Public Defender four times; twice the call was not
17 accepted by the Public Defender's Office and twice the Plaintiff hung
18 up.

19
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21 30. On December 20, 2017, the Plaintiff again told medical staff that he
22 was having thoughts of self-harm and "the voices also tell him to kill
23 himself."

1 31. On Friday December 22, 2017 the doctor from Eastern State Hospital
2 submitted a report regarding the competency of the Plaintiff. This
3 report was submitted electronically to the parties and the Court.

4
5 32. On Friday December 22, 2017 Plaintiff called the Public Defender's
6 Office at 2:54 p.m. and that call was not accepted by the Public
7 Defender's Office. At 2:56 p.m. the Plaintiff called back to the Public
8 Defender's Office and the Plaintiff hung up.

9
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11 33. On December 22, 2017 at around 7:50 p.m. the Plaintiff was placed in
12 a restraint chair where his arms and legs were restrained by detention
13 staff after the Plaintiff was found with a towel that was tied around his
14 neck.

15
16 34. On December 22, 2017 when the Plaintiff was asked "Inmate agrees
17 to contact for safety and will notify staff if they plan to act on suicidal
18 thoughts or impulses," the Plaintiff indicated to the staff 'No.'
19 Additionally, the Plaintiff was put on mental health watch with a
20 suicide gown and a mattress.

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23 35. On December 23, 2017 at 11:25 a.m. the Plaintiff was removed from
24 suicide watch despite after again being asked "Inmate agrees to contact
25

1 for safety and will notify staff if they plan to act on suicidal thoughts
2 or impulses,” the Plaintiff indicated to the staff ‘No.’
3

4 36. Between December 22, 2017 and January 3, 2018, the Plaintiff called
5 the Public Defender’s Office six times, with no call lasting more than
6 three minutes.
7

8 37. The last phone call made from Plaintiff was at 10:12 a.m. on January
9 3, 2018 to the Public Defender’s Office. This call lasted two minutes,
10 and the Plaintiff hung up. Thereafter, Plaintiff was found hanging in
11 his cell deceased at 11:05 a.m.
12

13 38. Between December 13, 2017 and January 3, 2018, the Plaintiff had no
14 visits from the Public Defender’s Office.
15

16 39. On information and belief, the County of Spokane Public Defender
17 Office has not implemented and does not employ a “case weighting”
18 pursuant to the Standards for Indigent Defense.
19

20 40. On information and belief, in the year of 2017 the County of Spokane
21 Public Defender Office employed a practice of “holding cases,”
22 wherein cases were not assigned to an attorney because the attorney
23 had reached the maximum number of assigned cases in a month.
24
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1 41. On information and belief, in 2017, the County of Spokane Public
2 Defender Office did not have policies, procedures, practices or training
3 to address clients who have known mental health disorders, and did
4 not employ or utilize a social worker, mental health professional, or
5 other person experienced with client needs.
6

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8 42. On information and belief, Plaintiff's case was not assigned as a result
9 of caseload standard limitations, and no one from the County of
10 Spokane Public Defender Office was actively monitoring mental
11 health status of the Plaintiff.
12

13 43. NaphCare never adequately evaluated Plaintiff for mental health issues,
14 even though it had adequate time to do so and reason to do so as the
15 medical records and history showed Plaintiff suffered from mental
16 health issues.
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19 44. Because NaphCare never conducted an adequate evaluation and never
20 provided treatment to Plaintiff, no individualized treatment plan was
21 developed for Plaintiff.
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1 45. On information and belief NaphCare never met with Plaintiff in a
2 clinical setting or provided any adequate assessment when Plaintiff
3 clearly suffered from a mental health condition.

4
5 46. Plaintiff required acute mental health care and medication to control
6 and/or alleviate his mental health issues, and neither NaphCare nor the
7 County of Spokane provided necessary medical care, failed to
8 administer necessary medication, failed to transfer Plaintiff to an
9 adequate medical facility.
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12 47. The Defendants County of Spokane and NaphCare were not aware of,
13 chose not to follow, and/or were not properly trained on County of
14 Spokane and NaphCare's existing policies and procedures, which
15 caused the damages suffered by the Plaintiff.
16

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18 48. County of Spokane and NaphCare failed to implement policies,
19 procedures, practices, and provide adequate training for treating and
20 caring for mental health issues, and failed to follow existing written
21 policies.
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1 49. County of Spokane and NaphCare failed to implement policies,
2 practices, and training to assure that inmates receive necessary and
3 proper medications.
4

5 50. County of Spokane and NaphCare failed to implement policies,
6 practices, and training to assure that inmates receive necessary medical
7 care and medications in observable emergency situations and/or in
8 observable situations requiring medical intervention.
9

10 51. County of Spokane and NaphCare implement policies, procedures, and
11 training to assure employees follow through with necessary care and
12 medications when observable signs, indications and responses show
13 the need for immediate medical intervention.
14

15 52. County of Spokane and NaphCare failed to properly staff the Spokane
16 County Jail so that inmates would receive necessary and required
17 medical care, would not be ignored, and observable medical conditions
18 were properly treated.
19

20 53. County of Spokane and NaphCare failed to implement policies,
21 practices, and training to initiate involuntary treatment proceedings for
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1 inmates that have medical and mental health disorders, where such
2 treatment is essential for their health and safety.

- 3
4 54. The above-stated failure to follow, implement, and/or deficiencies in
5 policies, procedures, practices and training constituted gross
6 negligence, negligence, and a deliberate indifference for Plaintiff's
7 constitutional rights.
8

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10 **IV. CLAIMS**

11 **CLAIM I**
12 **NEGLIGENCE**

- 13 55. Plaintiff incorporates by reference the above facts and paragraphs as
14 if fully asserted herein.
- 15 56. Defendants County of Spokane and NaphCare owed a duty of care to
16 Plaintiff not to cause unreasonable harm, to provide safe confinement
17 conditions, to provide necessary medical care, and necessary
18 medication.
19
- 20 57. County of Spokane and NaphCare have a duty to develop
21 individualized treatment plans for inmates, they have a duty to
22 maintain and follow a program to screen and evaluate inmates for
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1 mental health conditions and to implement the necessary care and/or
2 medications.

3
4 58. County of Spokane and NaphCare have a duty to provide current
5 prescriptions and psychiatric medications to inmates requiring such
6 medications and/or evaluate inmate for a new prescription without
7 delay.

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9 59. County of Spokane and NaphCare failed to provide necessary mental
10 health care, failed to know Plaintiff's required medication, failed to
11 provide Plaintiff's required medication, and failed to reduce
12 Plaintiff's isolation to prevent deterioration of Plaintiff's known
13 mental health condition.

14
15 60. Defendants County of Spokane and NaphCare breached the duty of
16 care owed to the Plaintiff by failing to provide safe confinement
17 conditions, provide necessary medical care, provide required
18 medications, and enact policies, procedures, practices and provide
19 training to prevent harm and ensure the duties were met.
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1 61. As a direct and proximate cause of the Defendants County of
2 Spokane and NaphCare's breach of duties owed, the Plaintiff
3 suffered harm resulting in death.

4
5 62. Defendants County of Spokane and NaphCare are joint and severally
6 liable for all damages resulting from its breach of duty, including but
7 not limited to the death of the Plaintiff, in an amount to be proven at
8 the time of trial.
9

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11 **CLAIM II**
12 **NEGLIGENCE**

13 63. Plaintiff incorporates by reference the above facts and paragraphs as
14 if fully asserted herein.

15 64. The Defendant County of Spokane owed a duty to the Plaintiff to
16 assign, monitor, observe and facilitate the necessary mental health
17 needs of the Plaintiff, who had a known mental health condition and
18 known prior suicide attempts.
19

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21 65. Defendant County of Spokane maintained a practice to hold cases
22 and not assign cases based upon caseload standards and case
23 weighting, which prevented the Plaintiff's case from being
24 adequately maintained and monitored.
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1 66. County of Spokane breached the duty of care owed to the Plaintiff,
2 and as a direct and proximate result of the breach of duty owed, the
3 Plaintiff did not get the necessary mental health treatment and/or
4 medications resulting in damages to the Plaintiff.
5

6 67. Defendant County of Spokane is liable for all damages caused as a
7 result of its breach of duty owed to the Plaintiff in amount to be
8 proven at the time of trial.
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11 **CLAIM III**
12 **DILIBERATE INDIFFERENCE – U.S.C.A. § 1983**

13 68. Plaintiff incorporates by reference the above facts and paragraphs as
14 if fully asserted herein.
15

16 69. Defendants County of Spokane and NaphCare failed to train their
17 employees, enact proper policy, procedures and practices to prevent
18 harm to Plaintiff in violation of Plaintiff's rights under the Fourteenth
19 Amendment.
20

21 70. All Defendants acted under the color of state law.
22

23 71. Defendants', County of Spokane and NaphCare, policies, procedures,
24 practices and training were not adequate to prevent their employees
25 to handle the usual and recurring situations with which they must

1 deal with inmates and clients who have mental health disorders,
2 conditions, and that require medical treatment, mental health
3 treatment, and/or medication.
4

5 72. Defendants County of Spokane and NaphCare were deliberately
6 indifferent to the substantial risk that its policies, practices,
7 procedures, and training were inadequate to prevent violation of
8 Fourteenth Amendment rights and the known and obvious
9 consequences, including death, from its failure to train and enact
10 proper policies, practices, procedures, and training.
11

12 73. The failure of Defendants County of Spokane and NaphCare to
13 provide proper training and enact proper policy, practices, and
14 procedures caused Plaintiff's Fourteenth Amendment right to be
15 violated, caused damages to Plaintiff, and ultimately resulted in the
16 death of Plaintiff.
17

18 74. That is to say, Defendants', County of Spokane and NaphCare,
19 failure to prevent violations by its employees, to train and enact
20 policies, is so closely related to the violation of Plaintiff's rights and
21 was the moving force that resulted in Plaintiff's death.
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CLAIM IV
CONFINEMENT AND DENIAL OF MEDICAL CARE U.S.C. § 1983

75. Plaintiff incorporates by reference the above facts and paragraphs as if fully asserted herein.

76. Plaintiff has brought a claim under the Fourteenth Amendment and asserts Defendants County of Spokane and NaphCare failed to provide safe conditions of confinement and provide needed medical care.

77. Defendants County of Spokane and NaphCare made the intentional decision regarding the conditions of confinement under which the Plaintiff was confined.

78. The conditions of confinement put the Plaintiff at substantial risk of suffering serious harm, and death.

79. The denial of medical treatment, failure to provide proper medication, put the Plaintiff at substantial risk of suffering serious harm, and death.

80. Defendants County of Spokane and NaphCare did not take reasonable measures to abate or reduce the risk of serious harm, even

1 though a person under the circumstances would have understood the
2 high degree of risk involved, making the consequences of the
3 Defendants', County of Spokane and NaphCare, conduct obvious.
4
5 81. By not taking such measures, Defendants County of Spokane and
6 NaphCare are jointly and severally liable for the fatal damages
7 caused to Plaintiff.
8

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10 **CLAIM V**
11 **WRONGFUL DEATH**

12 82. Plaintiff incorporates by reference the above facts and paragraphs as
13 if fully asserted herein.

14 83. Plaintiff brings this cause of action pursuant to RCW 4.20.010, RCW
15 4.20.020, RCW 4.20.046, and RCW 4.20.060, as a result of the
16 wrongful death of Chris Rogers caused by the Defendants County of
17 Spokane and NaphCare.
18

19 84. The Estate of Chris Rogers, with Steven Rogers, the father of Chris
20 Rogers, serving as the personal representatives of the Estate of Chris
21 Rogers is the proper individual to bring this action.
22

23 85. As a direct and proximate result of the negligence, wrongful acts and
24 omissions of the Defendants County of Spokane and NaphCare, as
25

1 stated herein and incorporated by reference above, the Plaintiff Estate
2 of Chris Rogers maintains this action for the wrongful death of the
3 Decedent Chris Rogers.
4

5 86. Prior to Decedent Chris Rogers' wrongful death, he suffered severe
6 physical pain and suffering resulting in mortal injury.
7

8 87. Plaintiff seeks recovery for damages jointly and severally against the
9 Defendants County of Spokane and NaphCare in an amount to be
10 proven at the time of trial as a direct result of the wrongful death of
11 Decedent Chris Rogers.
12

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14 **CLAIM VI**
15 **CIVIL RIGHTS CLAIM FOR CRUEL & UNUSUAL PUNISHMENT AND**
16 **DENIAL, DELAY, AND**
17 **WITHHOLDING OF MEDICAL CARE**

18 88. Plaintiff incorporates by reference the above facts and paragraphs as
19 if fully asserted herein.
20

21 89. 42 U.S. § 1983 and the Fourteenth Amendment to the U.S.
22 Constitution protects pretrial detainees from punishment, and affords
23 rights equal to or greater than afforded by the Eighth Amendment's
24 right to be free from cruel and unusual punishment.
25

1 90. Defendants Spokane County and NaphCare were deliberately and
2 recklessly indifferent to Plaintiff's serious mental health issues,
3 condition, and disorder in violation of Plaintiff's rights.
4

5 91. The insufficient policies, procedures, practices, and training caused
6 Plaintiff to be left without required medication and mental health and
7 medical treatment resulting in Plaintiff's death.
8

9 92. The acts and omissions by the employees of Defendant Spokane
10 County and NaphCare were done in the course and scope of
11 employment, and under the color of state law, making Defendant
12 Spokane County and NaphCare liable for all resulting damages in an
13 amount to be proven at the time of trial.
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16 **CLAIM VII**
17 **JOINT LIABILITY**

18 93. Plaintiff incorporates by reference the above facts and paragraphs as
19 if fully asserted herein.
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21 94. Plaintiff is without fault that form the basis of this lawsuit, therefore
22 the Defendants are jointly and severally liable to the Plaintiff for their
23 conduct, their employees' conduct, and resulting damage in an
24 amount to be proven at trial.
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V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff makes the following prayer for relief:

1. For a judgment for general and special damages in an amount to be proven at the time of trial;

2. For damages for pain and suffering preceding and occasioning the death of Plaintiff, including his knowledge and awareness of his impending doom;

3. For the mental distress suffered by the Plaintiff's beneficiaries, and for the loss of love, care, affection, companionship, past and future, occasioned by Plaintiff's death.

4. For funeral and burial expenses;

5. An award of reasonable attorneys' fees and costs as provided by law;

6. For punitive damages sufficient to punish Defendants for their wrongdoing and to deter future conduct;

7. For pre-judgment and post-judgment interest;

8. For such other and further relief as the Court deems just and proper.

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3 Dated this 21 day of December, 2020.
4

5 /s/ Chad Freebourn

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